

Statements by Whalen Admissible, Court Says

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A Federal judge ruled yesterday that statements made to FBI agents by Lt. Col. William H. Whalen, accused of espionage conspiracy, were given "freely and voluntarily" and may be admitted as evidence at his trial next week.

In the same ruling, Judge Oren R. Lewis of Alexandria Federal Court called FBI wiretapping of Whalen's home telephone "illegal" in spite of the national security aspects of the case.

Whalen, of Fairfax County, is accused of selling defense secrets to Soviet agents for \$15,000 from 1959 to 1963.

Judge Lewis warned the Government he would not permit it to introduce any evidence gained for the wiretapping. Department of Justice attorneys have said they do not plan to use wiretapping evidence.

Attorneys for Whalen, a 51-year-old former Pentagon intelligence aide, had sought to

have his statements thrown out, contending that Whalen was drinking heavily and was in ill health when he made the statements to FBI agents.

Government attorneys had said they might be forced to drop the charges against the retired Army officer if the statements were suppressed.

Making his ruling in a letter to government and defense attorneys, Judge Lewis said:

"The statements and confessions in question were freely and voluntarily given. They will be admitted in evidence at the trial, if tendered, subject to appropriate jury instructions."

"The Government assured the Court it will not offer any evidence in this case that was obtained through the illegal wiretapping of the defendant's telephone. If any such evidence is offered, it will be denied," the judge continued.

Whalen lives at 5903 Dewey dr. His trial is due to open Monday in Alexandria Federal Court with more than 60 witnesses scheduled to testify for the Government.